

STATE OF WASHINGTON



**OFFICE OF
INSURANCE COMMISSIONER**

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF WASHINGTON**

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In the Matter of)	No. D 99 - 102
)	
RELIANCE NATIONAL)	Consent Order Levying a Fine
INSURANCE COMPANY,)	
An Authorized Insurer.)	
)	

FINDINGS OF FACT:

1. Reliance National Insurance Company ("Reliance National") is an authorized insurer in Washington state. Since 1994, Reliance National has been writing professional liability insurance in purchasing group programs for dentists, nurses, and CRNAs (Certified Registered Nurse Anesthetists). For the dentists' professional liability policies, the forms were not approved by the Office of the Insurance Commissioner until August 19, 1997. Rates were filed in 1997 and again in 1998, but have not yet been approved. No rates or forms were filed for nurses' policies or CRNAs' policies until 1999. Since 1994, Reliance National has issued 29 dentists' policies, 910 nurses' policies, and 6 CNRAs' policies, generating a combined premium of \$123,056.

2. In a letter dated August 29, 1990, Assistant Deputy Insurance Commissioner John B. Woodall told the Filing and Compliance Manager of Reliance National that "At the current time, (emphasis added) Washington does not require rates and forms used by either risk retention groups or risk purchasing groups to be filed with us." On October 2, 1993, WAC 284-92-260 became effective. Subsection (1) of this regulation provides that "The requirements for filing and approval of policy rates and forms apply to forms issued or in connection with purchasing groups to the same extent as they apply in other situations." Both when this regulation was proposed and when it was adopted, notice was sent to all authorized property/ casualty insurers, including Reliance National.

3. An actuarial analyst employed by the Insurance Commissioner, James Antush, wrote a letter to Reliance National on March 30, 1998, disapproving a dentists' professional liability rate filing. In this letter, he requested an explanation as to why "...a filing was not submitted over four years ago."

Reliance National neglected to respond to that official inquiry within 90 days, and the disapproved rate filing was closed.

4. On July 6, 1998, The Insurance Commissioner's Senior Actuary, D. Lee Barclay, wrote to Reliance National, informing the insurer that its rate filing was being closed, and that it appeared to the Office of the Insurance Commissioner that its rate filing requirements were being violated. Mr. Barclay requested a listing of all dentist malpractice policies issued or renewed on or after February 1, 1994. He also asked whether there were other purchasing group programs that might be in violation. He cited WAC 284-30-650, which provides that it is an unfair practice for an insurer to fail to make a timely written response to an official request for information from the Insurance Commissioner. Reliance National neglected to respond to Mr. Barclay's letter. Later in the summer of 1998, Mr. Barclay followed up by telephone, but Reliance National did not return his call. On November 20, he called again. This time, he received a response. It was from Dennis Seiler, the corporate secretary of Reliance National's Healthcare Underwriting Department.

CONCLUSIONS OF LAW:

1. The failure of Reliance National to file and obtain approval for its purchasing group products before using them was a violation of WAC 284-92-260, which became effective on October 2, 1993.

2. Prior to July 27, 1997, RCW 48.18.100 and RCW 48.19.040 required, respectively, prior approval of forms and rates. Reliance National was in violation of those two sections. On July 27, 1997, RCW 48.18.103 and RCW 48.19.043 became effective. Subsection (2) of the first of these provides that "Commercial property casualty policies may be issued prior to filing the forms. All commercial property casualty forms shall be filed with the Commissioner within thirty days after an insurer issues any policy using them." Subsection (2) of the second of these provides that although commercial property casualty policies may be issued prior to filing the rates, "All commercial property casualty rates shall be filed with the Commissioner within thirty days after an insurer issues any policy using them." So after July 27, 1997, Reliance National was in violation of RCW 48.18.103 and RCW 48.19.043.

3. In its failure to respond timely, within fifteen business days of receipt, to the official inquiry letter from D. Lee Barclay, Reliance National violated WAC 284-30-650. Violation of that regulation is an unfair practice for an insurer, and therefore a violation of RCW 48.30.010(2).

4. RCW 48.05.140 authorizes the Insurance Commissioner to refuse, suspend, or revoke an insurer's certificate of authority, in addition to other grounds therefore, if the insurer fails to comply with any provision of Title 48 RCW, the Insurance Code, or fails to comply with any proper order or regulation of the Commissioner.

5. RCW 48.05.185 provides that after hearing or with the consent of the insurer, the Commissioner may levy a fine upon the insurer for an offense in an amount not less than two hundred fifty dollars and not more than ten thousand dollars.

CONSENT TO ORDER

1. Reliance National stipulates to the foregoing Findings of Fact and Conclusions of Law. It also stipulates to a fine for all the offenses listed, in a total amount of \$25,000, in lieu of proceedings against its certificate of authority. In accordance with RCW 48.18.185, the fine is to be paid in full within thirty days of the entry of this order in Olympia, Washington.

2. Reliance National stipulates that it is subject to the rate and form filings requirements imposed upon it by Title 48 RCW and Title 284 WAC. This includes, but it is not limited to, the products in its purchasing group programs. It further acknowledges its duty to respond timely to official inquiries from the Insurance Commissioner. Reliance National acknowledges its duty to keep informed about all applicable filing requirements, and to obey all laws and applicable insurance regulations of the

state of Washington.

EXECUTED this 22nd day of September, 1999.

Title: _____

Reliance National Insurance Company

ORDER:

Pursuant to RCW 48.140 and RCW 48.18.185, the Commissioner imposes a fine of twenty five thousand dollars (\$25,000) upon Reliance National Insurance Company. In accordance with RCW 48.18.185, the fine is to be paid in full within thirty days of the entry of this order in Olympia, Washington, otherwise the certificate of authority held by Reliance National shall be revoked, and the fine shall be recovered in a civil action brought on behalf of the Insurance Commissioner by the Attorney General.

ENTERED AT OLYMPIA, WASHINGTON, this 28th day of September, 1999.

DEBORAH SENN
Insurance Commissioner

By _____

William Kay Kirby
Assistant Deputy Insurance Commissioner